

PUBLIC LAW BOARD NO. 1582

PARTIES) THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY  
TO )  
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. That the Carrier's decision to assess claimant fifteen (15) demerits after investigation May 13, 1983 was unjust.
2. That the Carrier now expunge fifteen (15) demerits from claimant's record, reimbursing him for all wage loss and expenses incurred as a result of attending the investigation May 13, 1983, because a review of the investigation transcript reveals that substantial evidence was not introduced that indicates claimant is guilty of violation of rules he was charged with in the Notice of Investigation.

FINDINGS: This Public Law Board No. 1582 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was charged with absenting himself from duty on March 16, 1983 without proper authority in violation of Rule 15, General Rules for the Guidance of Employees, Form 2626 Standard. An investigation was held on May 13, 1983, and the claimant was found guilty of violating Rule 15 and was assessed 15 demerits.

On March 16, 1983 the claimant was assigned to the Extra Gang on the Dumas, Texas Section. Claimant's assigned hours were from 8:00 a.m. to 4:30 p.m. On March 16 the claimant reported at 8:00 a.m. and left work at 10:00 a.m.

The claimant testified that at 10:00 a.m. his foreman had not reported for work and that he had been instructed not to use the Company phone. The claimant also testified that he wanted to go see his doctor and that he waited until 10:00 a.m. to talk to his foreman, and when his foreman had not reported by that time, he departed.

The evidence indicates that the claimant was under the impression that he was not allowed to use a Company phone. He further testified that this was the first time since he had been employed that a foreman had not reported for duty, and he was unaware of his responsibilities under those circumstances.

After carefully reviewing the facts, it appears to the Board that there is no justification for discipline. Therefore, the 15 demerits will be set aside, and the claimant paid for wage loss and expenses incurred as a result of attending the investigation, in accordance with the agreement between the parties.

AWARD: Grievance sustained.

ORDER: The Carrier is directed to comply with this award within thirty days from the date of this award.

  
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Preston J. Moore, Chairman

  
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Organization Member

  
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Carrier Member

Dated August 16, 1983 at Chicago, Illinois